

## **REMARKS**

This Amendment is fully responsive to the non-final Office Action dated August 17, 2009, issued in connection with the above-identified application. Claims 1, 4-7 and 9-25 are pending in the present application. With this Amendment, claims 1, 7 and 19-25 have been amended. No new matter has been introduced by the amendments made to the claims.

Favorable reconsideration is respectfully requested.

At the outset, the Examiner states that the “when clauses” used in the claims are considered “optional language,” which is not given patentable weight in distinguishing the claims from the cited prior art. However, the Applicants assert that the phrases noted by the Examiner are more accurately “function limitations” that attempt to define something by what it does, rather than by what it is. There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

Additionally, a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed. Cir. 2004). (See also MPEP 2173.05(g)). Accordingly, reconsideration of all the limitations are respectfully requested.

Claims 1-7 and 9-21 have been rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter.

Specifically, the Examiner alleges that claim 1 recites “a content provider” and “a service provider,” which as a whole encompasses a human being. Additionally, claims 2-6 are rejected for being dependent from independent claim 1. The Applicants have amended the claims to replace “a content provider” with “a content provider unit,” and “a service provider” with “a service provider unit.”

The Examiner alleges that claims 7 and 19 recite various “units,” but the claims are directed to software *per se*. Claims 9-18 are rejected for being dependent from independent claim 7. The Applicants have amended claims 7 and 19 to include additional structural elements such as “a memory device that stores a program.”

The Examiner also alleges that claims 20 and 21 are directed to processes that are not tied to another statutory class such as a machine; or do not transform underlying subject matter to a

different state or thing. Claims 20 and 21 have been amended to include the structural elements used to perform the steps in the processes, thereby tying the processes to another statutory class such as a machine.

Based on the above amendments, the Applicants respectfully request that the rejection under 35 U.S.C. 101 be withdrawn.

In the Office Action, claims 1, 4-7 and 9-25 have been rejected as being unpatentable over Downs (U.S. Patent no. 6,266,618, hereafter “Downs”) in view of Ginter (U.S. Patent No. 5,892,900, hereafter “Ginter”).

The Applicants have amended independent claims 1, 7 and 9-25 to help further distinguish the present invention from the cited prior art. Independent claim 1 (as amended) recites the following features:

“[a] right management system for managing license information that allows usage of content, said right management system comprising:

a content provider unit that produces the content, said content provider unit including a first right management device;

a service provider unit that issues the license information to an end user, said service provider unit including a second right management device; and

a terminal device for the end user to use the content,

wherein said first management device comprises:

a content providing unit configured to encrypt the produced content using a content key, and provide the encrypted content to said terminal device;

an edit condition information generation unit configured to generate edit condition information indicating designation of a range of a usage condition which said second right management device is allowed to set in the license information, the usage condition allowing the end user to use the content;

a content key providing unit configured to provide a content key used for encrypting the content to said second right management device; and

an edit condition information providing unit configured to cause said second right management device to obtain the generated edit condition information,

wherein said second right management device comprises:

a license information generation unit configured to generate the license information to

include a usage condition for allowing usage of the content;

a transmission unit configured to transmit the generated license information to said terminal device;

a content key obtainment unit configured to obtain, from said second right management device included in said content provider unit, the content key used for encrypting the content;

a second range designation obtainment unit;

a second usage condition judgment unit; and

a second validation unit,

wherein said second range designation obtainment unit is configured to obtain the edit condition information generated by said first right management device, said second usage condition judgment unit is configured to judge whether or not the usage condition is within the range designated in the edit condition information, and said second validation unit is configured to insert the content key into the license information when the usage condition judged to be within the range, and not to insert the content key into the license information when the usage condition is judged not to be within the range,

wherein said license information generation unit is configured to insert the edit condition information, which is obtained by said second range designation unit, into the license information, and

wherein said terminal device comprises:

a reception unit configured to receive the license information from said second right management device;

a range designation obtainment unit configured to obtain the edit condition information which is generated by said first right management device and is included in the license information;

a usage condition judgment unit configured to judge whether or not the usage condition included in the license information received from said second right management device is within the range designated in the obtained edit condition information; and

a validation unit configured to validate the received license information and decrypt the content using the content key included in the license information when the usage condition is judged to be within the range, and abandon the received license information when the usage condition is judged not to be within the range.”

One or more of the features of the system noted above in independent claim 1 are recited in independent claims 7 and 19-25 (as amended). Additionally, the features noted above in independent claim 1 (and similarly recited in independent claims 7 and 19-25) are fully supported by the Applicants' disclosure.

In the Office Action, the Examiner relies on Ginter and Downs for disclosing or suggesting all the features recited in independent claims 1, 7 and 19-25. However, the Applicants assert that Ginter and Downs fail to disclose or suggest the features now recited in independent claims 1, 7 and 19-25, as amended.

Ginter discloses systems and methods for electronic commerce including secure transaction management and electronic rights protection. As described in Ginter, electronic appliances such as computers help to ensure that information is accessed and used only in authorized ways, and maintain the integrity, availability, and/or confidentiality of the information.

Additionally, Ginter discloses that a permissions record (PERC) 808 (corresponding to license information) contains decryption keys for an object (corresponding to content), usage of keys when performing operations associated with the exercise of a right as required by the PERC, and that future substantive modifications of a PERC, if allowed, are controlled by methods associated with operations using the distribution right(s) defined by the same (or different) PERC (see e.g., col. 155, line 38 to col. 156, line 9).

Ginter, however, merely discloses that future substantive modifications of license information for the purpose of redistribution to another terminal device, for example, are "controlled by methods associated with operations using the distribution right(s) defined by the same (or different) PERC".

In other words, Ginter fails to disclose or suggest that a third party (the right management device of the content provider unit) places restriction on generation of the license information by the right management device. In addition, Ginter fails to disclose that the range of a usage condition indicated by the license information generated by the service provider unit is restricted by edit condition information obtained from the third party (the right management device of the content provider unit).

Moreover, Downs fails to overcome the deficiencies noted above in Ginter.

Downs discloses an electronic content delivery system which securely provides data to a user's system. In Downs, data is encrypted using a data decryption key, the data decryption key is encrypted using a first public key, and the encrypted data is made accessible for the user's system. When the encrypted data decryption key is transferred to an information center having a first secret key corresponding to the first public key, the information center decrypts the data decryption key using the first secret key, re-encrypts the decrypted data decryption key using a second public key, and transfers the re-encrypted data decryption key to the user's system. The user's system has a second secret key corresponding to the second public key, and decrypts the re-encrypted data decryption key using the second secret key. This allows the user's system to decrypt the encrypted data using the decrypted data decryption key.

Downs further discloses that electronic watermark indicating a level of restriction on content use is embedded in the content, and that the terminal device does not execute a user's request to use the content when the user's request to use the content does not meet the restriction in a usage condition.

In Downs, the content provider allows the user's system (terminal device) to obtain data (content) encrypted using a data decryption key (content key), encrypts the data decryption key (content key) used for encrypting the data (content), and transmits the encrypted data decryption key (content key) to the information center (service provider). The information center (service provider) re-encrypts the received data decryption key (content key) using the public key of the user's system (terminal device), and transmits the re-encrypted data decryption key (content key) to the user's system.

Thus, Downs also fails to disclose or suggest that the service provider does not transmit the data decryption key to the user's system when the usage condition included in the license information does not meet the restriction designated by the content provider.

As discussed above, Downs and Ginter fail to disclose or suggest at least the following two features of the present invention (as recited in independent claims 1, 7 and 19-25):

(1) A service provider unit (or step) that inserts the content key into the license information when the usage condition is within the range indicated by the edit condition information, and does not insert the content key into the license information when the usage condition is not within the range indicated by the edit condition information.

(2) After the service provider unit (or step) performs the check described in (1), the terminal device of the end user decrypts the content using the content key included in the license information when the usage condition included in the license information is within the range indicated by the edit condition information, and abandons the license information when the usage condition is not within the range indicated by the edit condition information, so that a double check can be performed by the service provider unit and the terminal device of the end user.

Based on the above discussion, no combination of Ginter and Downs would result in, or otherwise render obvious, the features of the present invention (as recited in independent claims 1, 7 and 19-25). Likewise, no combination of Ginter and Downs would result in, or otherwise render obvious, the features of claims 4-6 and 9-18 at least by virtue of their respective dependencies from independent claims 1 and 7.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass the present application to issue. The Applicants are requested to contact the undersigned attorney by telephone to resolve any issues remaining in the application.

Respectfully submitted,

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